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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

MILDRED S. POLAND REVOCABLE TRUST
DTD 9/8/87; THE ESTATE OF MILDRED S.
POLAND; and PHYLLIS POLAND-FERRITER, in
her capacity as Personal Representative of the Estate
of Mildred S. Poland and Successor Trustee of the
Mildred S. Poland Revocable Trust dtd 9/8/87,

Defendants.

Adv. Pro. No. 10-04585 (SMB)

NOTICE OF MEDIATOR SELECTION

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)¹ [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on November 30, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

On April 17, 2014 Defendants filed a motion to dismiss this adversary proceeding [Dkt. No. 18] pursuant to Federal Rule of Civil Procedure 12(b)(6), made applicable by Bankruptcy Rule 7012 (a “Rule 12(b)(6) Motion”).

On May 22, 2014, the Trustee filed with this Court the Notice of Mediation Referral [Dkt. No. 20], pursuant to Paragraph 2D of the Avoidance Procedures, which specifies that upon the filing of a Rule 12(b)(6) Motion, the issues raised in such motion, together with the issues raised in the Complaint, are immediately referred to mediation. Avoidance Procedures, ¶2D.

Through this Notice of Mediator Selection, and pursuant to the Avoidance Procedures and the Mediation Order, made applicable to the Parties upon the filing of the Notice of Mediation Referral, the Parties hereby mutually select from the Mediation Register Jeffrey N. Rich, from the law firm of Rich, Michaelson Magaliff Moser, LLP, to act as Mediator in this matter. The Parties further agree to contact Mr. Rich as soon as practicable after this Notice of Mediator Selection is filed with the Court.

The Parties further agree that no person shall act as Mediator if that person, or that person's law firm, currently represents a party with respect to the BLMIS proceeding, unless the Parties provide prior written consent that the person may act as Mediator.

Pursuant to the Avoidance Procedures, the Parties agree that this mediation will conclude within 120 days from the date that this Notice of Mediator Selection is filed, unless that deadline is extended by mutual consent of the Parties and the Mediator.

Dated: New York, New York

May 30, 2014

¹ All terms not defined herein shall be given the meaning ascribed to them in the Order.

Of Counsel:

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/s/ Marc Rosenberg

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Poland; and Phyllis Poland-Ferriter, in her capacity
as the personal representative of the Estate of
Mildred S. Poland and Successor Trustee of the
Mildred S. Poland Revocable Trust dtd 9/8/87.*